

**DRAFT MINUTES  
ENVIRONMENTAL PROTECTION AGENCY  
FOCUS GROUP MEETING ON  
DEVELOPING A RCRA STANDARDIZED PERMIT**

**List of Attendees**

Environmental Protection Agency

Paul Bangser, OGC  
Gina Bushong, OPPE  
Tricia Buzzell, PSPD  
David Eberly, PSPD  
Steve Heare, PSPD  
Toshia King, OSW  
Vernon Myers, PSPD  
Andy Bellina, Region 2  
Ginny Phillips, PSPD  
Sonya Sasseville, OSW

Stakeholders

Jeff Gunnulfsen, CMA  
Amy Lawrence, Ross and Associates  
Dave Timmons, Dupont  
Damon Whitehead, Earthjustice

**Topics Discussed**

1. Introductory Remarks
2. Overview of Current Proposal on the RCRA Standardized Permit Rule
3. Scope of the Proposed Rule
4. Proposed Permitting Process
5. Facility and Technical Requirements

**Introduction**

The Environmental Protection Agency (EPA), Office of Solid Waste (OSW), held a focus group meeting on October 21, 1997, to obtain stakeholder feedback on EPA's plans to develop a RCRA standardized permit for certain storage and treatment facilities. EPA hopes to publish proposed permitting standards in the summer of 1998 and finalize those standards in 1999. It was emphasized that EPA's standardized permit plans were not yet resolved and, therefore, EPA was eager to receive stakeholder input on a variety of issues. Handouts were distributed to focus group participants.

## **1. Introductory Remarks**

Vernon Myers, Permits and State Programs Division (PSPD), welcomed the participants to the focus group meeting. He explained that the focus meeting was not a meeting subject to the Federal Advisory Committee Act (FACA) standards. The meeting's purpose was to obtain stakeholder feedback, it was not to reach consensus on discussion topics. Mr. Myers stated that the standardized permit should cause no major economic impacts and, therefore, there would be no extensive economic analysis performed. The standardized permit should also have no significant effects on small businesses.

## **2. Overview of the Current Understanding of the RCRA Standardized Permit Rule**

The purpose of the standardized permit rule is to streamline permit application and review procedures. The following aspects of the rule were summarized:

- The standardized permit rule focuses on low risk facilities and facilities with standard design requirements. The standardized permit procedures will not apply to landfills or thermal treatment units.
- EPA convened the Permit Improvement Team (PIT) in 1994 to improve Agency permitting programs. The PIT has conducted numerous stakeholder meetings and other outreach activities. The PIT recommended, among other thing, the streamlining of the RCRA permitting process for certain treatment and storage units.
- Under current plans, there would be no required increase in enforcement and compliance efforts established under the rule (although increased efforts may occur notwithstanding). It was noted that the facilities eligible for the standardized permits are considered relatively safe.
- There are differences between general and standardized permits. The rule will only establish procedures for standardized permits.
- The rule would allow one opportunity to challenge the technical standards applicable to the standardized permit (and this would occur during the comment period on the proposed standards). Certain issues in individual applications could, however, be contested on a case-by-case basis.
- There are only 341 operating RCRA treatment and storage facilities that remain to be permitted. Because the standardized permit rule will also affect permit renewals and modifications, however, the rule will affect many more facilities.

- The participants discussed existing State permitting programs. It was noted that few States use general permits in their hazardous waste management programs, but the programs from the States of New York and Texas should be evaluated.

### **3. Scope of the Proposed Rule**

EPA's standardized permit would apply to nonthermal treatment and storage processes that occur in tanks, containers, and containment buildings at generators that manage hazardous waste. EPA will probably request public comment on whether the standardized permit should apply to containment buildings or off-site recyclers.

EPA believes that the risks associated with these hazardous waste management programs are low enough to be addressed through the streamlined permit process. Community stakeholders have indicated that although these management programs may present fewer risks, compliance and enforcement efforts should be increased to ensure that those risks are adequately addressed.

Facilities that receive waste from off-site sources would be ineligible for a standardized permit. The participants discussed limiting the definition of off-site and whether a facility would be able to receive transported wastes and still be eligible for a standardized permit. One participant indicated that in order to receive a standardized permit, the facility should not be able to receive any transported waste, even if the waste was sent through an intra-company transfer. This concern was relevant to large companies that extended over large areas. It was noted that transportation costs will limit how far waste is transported. EPA intends on using a narrow definition of on-site, but indicated that EPA will probably request public comment on the transportation issue.

Federal facilities would be eligible to apply for the standardized permit. One participant indicated that if some Federal facilities can obtain standardized permits right away, those facilities may avoid ever having to undergo certain oversight activity. The participants also discussed, and EPA is considering, whether waste volume limitations should be incorporated in the permit standardization rule.

The participants discussed whether enforcement status eligibility standards should be included in the rule. These standards would prevent significant noncompliers or facilities with histories of permit violations from obtaining a standardized permit or even from receiving an individual permit. It was stated that the permit certification requirement may help ensure that environmental safety requirements are adequately addressed. One participant indicated that the rule would need to distinguish less harmful violations versus violations that harm health and the environment. The participants discussed the applicability of Class I type violations to eligibility criteria.

#### **4. Proposed Permitting Process**

The standardized permit will consist of two parts: a uniform portion that would be included in all cases, and a supplemental portion that would only be required at the permitting agency's discretion. The supplemental portion would be applied on a case-by-case basis. There will be preapplication meetings which will allow community members the opportunity to raise relevant permitting concerns. EPA may request public comment on whether a permitting agency would be required to evaluate a facility's permitting history regardless of whether a community raised the facility's compliance history as a permitting concern.

Once a standardized permit is obtained, it will be each facility's responsibility to maintain the information identified in Parts A and B of the current permit. One participant noted that because there is frequent confusion over what information is required for a permit, it is likely that facilities will fail to maintain information that the permitting agency believes is necessary. In lieu of the Notice of Deficiency (NOD) process, the rule may need to address procedures to minimize conflicts over required information. One participant indicated that it would better serve public interests if the information repository was located at a neutral location, such as a library or fire station, rather than at the facility.

The proposed rule will indicate that there is no legal right to obtain a standardized permit and that EPA's decision to deny a standardized permit does not qualify as a final agency action. In addition, when the permitting agency fails to act on a permit application within the self-imposed deadline, this does not result in de facto approval. It was suggested that some states (e.g. Pennsylvania) refund the permit application fee to compensate the applicant for processing delay.

Facility modifications would also be addressed by the standardized permit rule. There would be two tiers of modification requirements. Small modifications could be made without prior agency approval, while more significant modifications, such as large increases in design capacity, would require agency involvement. EPA is considering using the interim status model and will seek public comment on the subject. One participant indicated that industry groups might favor procedures that would minimize public participation requirements associated with permit modifications. It was also suggested that the permit rule consider the Toxic Release Inventory (TRI) and the persistence, bioaccumulation, and toxicity (PBT) list criteria as a possible way to distinguish between which of permit modifications tiers to require.

EPA is considering how to address permit conversions and hybrid facilities within the standardized permit rule. The participants also discussed State interest in obtaining access to information and State authorization and dual permitting issues.

Currently, only the final permit decision (i.e., the decision to issue a supplemental portion, not to issue a supplemental portion, or to deny a permit) is subject to appeal before the Environmental Appeals Board (EAB). One participant objected to the public's inability to appeal the eligibility

determinations. The rule will not, however, affect a person's right to submit a claim in a circuit court.

It was suggested that the rule should require that the permitting agency inspect each new facility seeking a standardized permit. It was explained that the public is comforted by government involvement and oversight of hazardous waste activities. A participant said that additional compliance and enforcement efforts are needed to counteract the decreased government involvement in issuing these types of permits.

The rule will, in some manner, discuss waste minimization and pollution prevention activities. A participant indicated that detailed criteria would be helpful.

## **5. Facility and Technical Requirements**

EPA currently believes that there will be only one opportunity to challenge the technical standards identified in the standardized permit rule and that is during the comment period on the proposed standards. EPA expects these requirements to be identified in a separate part of the Code of Federal Regulations. As an alternative, a participant suggested that the regulations could include a table to identify applicable requirements. This table would resemble the table ("roadmap") currently used by the air program.

The participants discussed whether financial assurances need to be site-specific. It was suggested that financial assurances and liability related issues could be incorporated into the uniform portion of a permit. A participant suggested that a formula could be developed to provide financial assurance requirements on a general scale. Another participant stated that Region 4 may have a useful formula model, but there may be contractual difficulties associated with its use. It would also be valuable to address the timing of payment and the method of financial assurances. EPA will probably request public comment on financial assurances.

Closure plans will be submitted six months before closure and clean closure will remain the preferred option. The permitting agency must approve the closure plan before the owner or operator can close the facility. The participants discussed whether public participation procedures should be available at the time of closure. The participants discussed whether the definition of tanks should be limited in order to distinguish tanks from Subpart X units.

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